

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:10CV376-W-02  
(3:07CR79-1-W)

PATRICK SCHWENKE,	)	
	)	
Petitioner,	)	
	)	
v.	)	<u>ORDER</u>
	)	
UNITED STATES OF AMERICA,	)	
	)	
Respondent.	)	
_____	)	

**THIS MATTER** comes before the Court on Petitioner's de facto § 2255 motion to vacate Petitioner's conviction for a violation of 18 U.S.C. § 924(c)(1), filed August 12, 2010 (Doc. No. 1).

By his motion, Petitioner, through his counsel, alleges that trial counsel's ineffectiveness caused him to make and unintelligent and involuntary guilty plea to the subject firearm charge, there was no factual basis to support his plea to that charge, and Petitioner is actually innocent of the subject charge.

Although it is far from clear whether Petitioner is entitled to any relief on his claims, after careful consideration of these matters, the Court finds that the Government should be required to file a detailed, well-reasoned response to Petitioner's each of the claims.

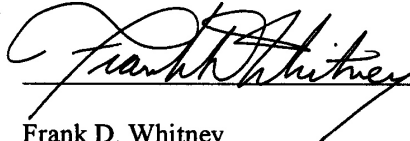
**NOW, THEREFORE, IT IS ORDERED THAT:**

1. Within forty (40) days of the date of this Order, the United States Attorney shall file an answer and/or other appropriate response to Petitioner's allegations; and

2. The Clerk shall send copies of this Order to counsel for the parties.

**SO ORDERED.**

Signed: August 16, 2010

  
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Frank D. Whitney  
United States District Judge

